

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Yolanda Denise Dean,

Defendant.

ORDER

Crim. No. 97-276 (03) (MJD)

This matter is before the Court on Defendant's *pro se* motion for appointment of counsel and for reduction in her sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines.

A defendant does not have a constitutional or statutory right to counsel in a sentence modification proceeding under 18 U.S.C. § 3582(c)(2). United States v. Harris, 568 F.3d 666, 669 (8th Cir. 2009). In addition, the Court has reviewed this matter and finds that Defendant would not be entitled to a sentence reduction as the guideline range after applying the new base offense level remains the same: 360 months to life in prison.

When the Defendant was originally sentenced, the total offense level for Count 1 was 42 (base offense level 38 plus 4 levels for aggravated role). Because the Defendant fell into a criminal history category III, the applicable guideline

range was 360 to life.

Applying Amendment 782, the Defendant's base offense level is determined based on the amount of drugs for which she is held accountable. The Defendant was held accountable for over 1.5 kilograms of cocaine base and over 150 kilograms of cocaine, which is the equivalent of 35,365.5 kilograms of marijuana. Pursuant to § 2D1.1, the base offense level for over 35,000 kilograms of marijuana is 36. Adding the 4 level aggravating role enhancement results in a total offense level 40. Based on a criminal history category III, the applicable guideline range is 360 months to life in prison.

IT IS HEREBY ORDERED that Defendant's Motion for Appointment of Counsel and for Reduction of Sentence [Doc. Nos. 1637 and 1638] are DENIED.

Date: April 8, 2016

s/ Michael J. Davis

Michael J. Davis

United States District Court